2026 IL App (1st) 260647-U
No. 1-26-0647
Order filed November 6, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23 and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

FIFTH DIVISION

YAVONNE BOESE, individually and on behalf of all others similarly situated, Plaintiff-Appellee,

v.

SILVERLAKE FINANCIAL, LLC, Defendant-Appellant

Appeal from the Circuit Court of Cook County.
Honorable David B. Atkins, Judge, Presiding.
No. 25-CH-05201

PRESIDING JUSTICE ODEN JOHNSON delivered the judgment of the court.
Justices C.A. Walker and Donnelly concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court properly denied defendant's motion to compel arbitration when defendant failed to meet its burden to establish that there was a valid arbitration agreement between the parties where: (1) defendant was not a party to the arbitration agreement between plaintiff and a law firm engaged for legal services; (2) defendant failed to establish that it had an agency relationship with the law firm in order to invoke the arbitration clause as a nonsignatory; (3) the misconduct alleged against defendant in the complaint took place prior to plaintiff's engagement of the law firm; and (4) the alleged misconduct was outside the scope of the engagement letter and terms of conditions between plaintiff and the law firm.

¶ 2 Defendant Silverlake Financial, LLC appeals the denial of its motion to compel arbitration against plaintiff Yavonne Boese, individually and on behalf of all others similarly situated. On appeal, defendant contends that the circuit court erred in denying its motion to compel arbitration where plaintiff alleged an agency relationship between defendant and Palisade and plaintiff's claims against defendant arose out of that relationship and were related to the engagement agreement. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 Plaintiff, individually and on behalf of other persons similarly situated, filed a class action complaint on May 12, 2025, against Silverlake Financial, LLC, alleging violations of the Debt Settlement Consumer Protection Act (225 ILCS 429/1 *et seq*. (West 2024)) based on consumer fraud and deceptive business practices. The complaint alleged that beginning in April 2022, defendant mailed plaintiff offers for a flexible personal loan that was advertised as a means to pay down her unsecured debts. By October 2023, plaintiff was in financial distress and contacted defendant to determine if she qualified for a loan. In a series of telephone calls, defendant's agent notified plaintiff that she did not qualify for a loan and instead offered her a debt settlement program. Defendant's agent explained that if she enrolled in the debt settlement program, defendant could settle her debts for 40 to 60 cents on the dollar.

¶ 5 The complaint further alleged that after that call, defendant sent plaintiff a solicitation email confirming that she did not qualify for a loan due to her credit score and high debt to credit ratio, but that she qualified for defendant's "Fresh Start Program." The email contained allegedly false information about the program's success rate and instructed her to both stop paying her unsecured debts and cease communicating with her creditors. Defendant also allegedly told plaintiff to block her creditors' calls and redirect them to defendant. Finally, defendant's email allegedly contained

three payment options available and promised that plaintiff could be debt free in a matter of years. The complaint alleged that once plaintiff agreed to engage defendant for its services and chose a payment option, defendant disclosed for the first time that it did not actually provide the services, rather, the services would be provided by a different entity called Palisade Legal Group (Palisade). Plaintiff's claims and complaint allegations do not extend beyond defendant's post-acceptance communication that it did not actually provide the debt settlement services as advertised.

¶ 6 After it was served with the summons in this case, defendant sought to invoke a later signed engagement letter and terms of engagement (collectively the agreement) between plaintiff and Palisade, both of which contained an arbitration provision. Defendant moved to dismiss or stay and to compel arbitration on the basis that plaintiff alleged an agency relationship between defendant and Palisade, which it claimed permitted defendant to enforce the agreement to arbitrate between plaintiff and Palisade. Attached to its motion was an affidavit from defendant's CEO, David Potalivo, in support of its motion, and it included a copy of the engagement agreement and terms of engagement entered into between plaintiff and Palisade, which were executed on October 12, 2023. The engagement letter and the terms of engagement both included arbitration provisions as follows:

> "**Arbitration.** In the unlikely event that any controversy or dispute should arise between you and the Firm that we are unable to resolve, such dispute shall be submitted to binding arbitration. Such dispute shall be submitted to binding arbitration in accordance with the Laws of the State of Illinois for agreements to be made in and to be performed in Illinois as further set forth in our Terms of Engagement."
>
> "**17. Arbitration, Choice of Law, and Class Action Waiver.** In the unlikely event that any controversy or dispute should arise between Client and the Law Firm as a result of the Law

> Firm's Engagement that we are unable to resolve, such dispute shall be submitted to binding arbitration in accordance with the laws of the state of IL for agreements to be made in and to be performed in IL. The Client agrees that s/he may not bring claims as a plaintiff or class member in any purported class or representative proceeding. In the event a Party fails to proceed with arbitration, unsuccessfully challenges the arbitrators award, or fails to comply with the arbitrators award, the other Party shall be entitled to recover their costs of suit, including a reasonable attorney's fee for having to compel arbitration or defend or enforce the award. This section shall survive any termination of the Law Firm's engagement."

¶ 7 The circuit court held a hearing on defendant's motion and entered a written order denying the motion on March 13, 2026. The court found that plaintiff had not entered into any written agreement with defendant and did not agree to arbitrate disputes between plaintiff and defendant; and the dispute between plaintiff and defendant did not fall within the scope of the arbitration agreement defendant sought to invoke. Defendant subsequently filed this timely interlocutory appeal.

¶ 8 II. ANALYSIS

¶ 9 Defendant filed its timely notice of appeal on April 8, 2026, pursuant to Illinois Supreme Court Rule 307(a)(1) (eff. Nov. 1, 2017), appealing the March 13, 2026, order denying its motion to compel arbitration. Rule 307(a)(1) permits interlocutory appeals from orders granting or refusing an injunction. *Id*. An injunction is a judicial process requiring a party to do a particular thing or refrain from doing a particular thing. *Herns v. Symphony Jackson Square LLC*, 2021 IL App (1st) 201064, ¶ 14. An order granting or denying a motion to compel arbitration is injunctive

in nature and is appealable under Rule 307(a)(1). *Id.* Accordingly, this court has jurisdiction pursuant to Rule 307(a)(1).

¶ 10 A motion to compel arbitration is fundamentally a section 2-619(a)(9) (735 ILCS 5/2-619(a)(9) (West 2024)) motion to dismiss or stay an action based on an affirmative matter, the exclusive remedy of arbitration. *Westlake Services LLC v. Williams*, 2025 IL App (1st) 241383, ¶ 13. In ruling on a motion to dismiss and compel arbitration pursuant to section 2-619, the court must interpret all pleadings and supporting documentation in the light most favorable to the nonmoving party. *Id.* Generally, the standard of review for an order granting or denying a motion to compel arbitration is abuse of discretion. *Id*. But when the circuit court's decision is made without an evidentiary hearing and without findings on any factual issues, this court's standard of review is *de novo*. *Id.* In this case, the record indicates that the circuit court did not hold an evidentiary hearing, thus our review is *de novo*.

¶ 11 A court should grant a motion to compel arbitration if there is (1) a valid arbitration agreement between the parties and (2) the litigation falls within the scope of the arbitration agreement. *Donaldson, Lufkin & Jenrette Futures, Inc. v. Barr*, 124 Ill. 2d 435, 444-45 (1988).

¶ 12 As an initial matter, this court must determine whether it or an arbitrator should decide the motion to dismiss and compel arbitration. *Clark v. Foresight Energy, LLC*, 2023 IL App (5th) 230346, ¶ 15. Illinois courts follow a three-pronged approach when determining whether parties agreed to arbitrate: (1) if the dispute clearly falls within the arbitration clause, the court must compel arbitration; (2) if it clearly does not, the court must deny arbitration; and (3) if it is unclear, the arbitrator decides arbitrability. *Id.* Defendant contends that the arbitration clause applies because plaintiff alleged an agency relationship between it and Palisade and her claims against defendant arose from that agency relationship and are related to the engagement agreement with

Palisade. But whether a claim is arbitrable on its face is initially for the court to decide. *Westlake*, 2025 IL App (1st) 241383, ¶ 15.

¶ 13 Silverlake contends that the arbitration clauses contained in the agreement, which plaintiff agreed to, applies to it as an agent of Palisade in facilitating the transaction. But again, whether a claim is arbitrable on its face is initially for the court to decide. *Westlake*, 2025 IL App (1st) 241383, ¶ 15. The United States Supreme Court has reiterated that courts may not assume parties agreed to arbitrate arbitrability unless there is clear and unmistakable evidence that they did so. *Coinbase, Inc. v. Suski*, 602 U.S. 143, 149 (2024).

¶ 14 Illinois considers arbitration to be a favored method of dispute resolution. *Clark*, 2023 IL App (5th) 230346, ¶ 23. However, arbitration is still a matter of contract and parties are bound to arbitrate only those issues they have agreed to arbitrate (*Gaines v. Ciox Health, LLC*, 2024 IL App (5th) 230565, ¶26), as shown by the clear language of the agreement and their intentions expressed in that language (*Clark*, 2023 IL App (5th) 230346, ¶ 23). Their agreement will not be extended by construction or implication. *Id*. The primary objective in interpreting any contract, including an arbitration agreement is to give effect to the intent of the parties. *Clark*, 2023 IL App (5th) 230346, ¶ 24. The language of the contract alone, given its plain and ordinary meaning, is the best indication of the parties' intent. *Id*. Indeed, the Supreme Court also reiterated in *Coinbase* that arbitration agreements are strictly a matter of consent and that the parties resolve through arbitration only those disputes they have agreed to submit to an arbitrator, thus, the first question in any arbitration dispute must be, "what have these parties agreed to?" *Coinbase*, 602 U.S. at 148.

¶ 15 Here, neither party disputes that plaintiff entered into an agreement with Palisade that contained arbitration clauses. The question is whether those clauses should apply to matters that arose between plaintiff and defendant, who is not a party to the agreement, and arose prior to the

attorney-client relationship between plaintiff and Palisade. To be sure, a motion to compel arbitration raises the sole and narrow issue of whether the parties agreed to arbitrate the dispute. *Clark*, 2023 IL App (5th) 230346, ¶ 21.

¶ 16 As noted above, defendant contends that the circuit court erred in denying its motion to compel arbitration when plaintiff alleged that there was an agency relationship between defendant and Palisade and plaintiff's claims against defendant arose out of that relationship and are related to the engagement agreement. In support of that contention, defendant argues that the circuit court erred in finding that plaintiff's claims and damages arose prior to the execution of the Palisade agreement and further that plaintiff did not allege an agency relationship such that defendant can enforce the agreement to arbitrate. Defendant admits that it was not a party to the agreement but still claims that because plaintiff's complaint alleged that defendant acted as Palisade's agent in soliciting plaintiff on Palisade's behalf, and that defendant referred plaintiff to Palisade, it can compel arbitration under the agreement. This argument is without merit.

¶ 17 In order to determine whether defendant can invoke the arbitration clause in the attorney engagement letter, we must interpret the written agreement between plaintiff and Palisade. The interpretation of a contract involves a question of law that we review *de novo*. *Dowling v. Chicago Options Associates, Inc.*, 226 Ill. 2d 277, 285 (2007). Our primary goal in interpreting a contract is to give effect to the intent of the parties. *Owen v. Village of Maywood*, 2023 IL App (1st) 220350, ¶ 21. When the words of a contract are clear and unambiguous, they must be given their plain, ordinary, and popular meaning. *Id*. When the language of the contract is susceptible to more than one reasonable meaning, it is ambiguous, and the court can consider extrinsic evidence to determine the parties' intent. *Id*. However, the parties' disagreement on the meaning of a contract term does not, by itself, make that term ambiguous. *Id*. Rather, ambiguity arises only when the

language has more than one reasonable interpretation. *Id*. Courts treat arbitration agreements like any other contract. *Peterson v. Devita*, 2023 IL App (1st) 230356, ¶ 23. A contract, not fate, dictates arbitrability. *Id.* ¶ 35.

¶ 18 In this case the attorney-client relationship and scope of representation between plaintiff and Palisade are governed collectively by the engagement letter and the terms of engagement letter. The engagement letter specifically states that it is for legal services between plaintiff and Palisade. It includes a limited scope of engagement for the attempted negotiation and resolution of plaintiff's unsecured debts and states that any other services are not covered by the scope of the engagement and will require a separate letter. The engagement letter also indicated that it, along with the terms of engagement constitute the entire understanding between the parties. The engagement letter further includes the arbitration clause noted above.

¶ 19 The terms of engagement letter also specifically refers to plaintiff and Palisade as the parties to the agreements and indicates that it corresponds to the engagement letter for the legal representation of plaintiff and had a limited scope. With respect to work performed by third parties, the terms of engagement provides: "Client authorizes the Law Firm to delegate any portion of the services provided under these Terms to any attorneys or non-attorneys it chooses, subject to the applicable laws and Rules of Professional Conduct of the applicable state." The terms of engagement further indicates that it and the engagement letter constitute the entire agreement between the parties for the law firm's engagement and "supersede all prior agreements, representations, statements, promises and understandings, whether written or oral, with respect to the subject matter thereof. These Terms may only be modified, amended or waived by a writing signed by both Client and the Law Firm." As noted, the terms of engagement also contain an arbitration clause similar to the one in the engagement letter.

¶ 20 Reviewing the plain language of both the engagement letter and the terms of engagement letter, it is clear that it was intended to solely govern the engagement of legal services between plaintiff and Palisade and explicitly states that. There is no reference to agents or third parties beyond what is specifically referenced in the terms of engagement regarding delegation of legal services to other attorneys or non-attorneys. We find the language contained in both the engagement letter and the terms of engagement to be clear and unambiguous, and that the intention of those documents was solely to cover Palisade's engagement for legal services on behalf of plaintiff, and not any pre-relationship dealings between plaintiff and another party. Thus, the arbitration agreement between plaintiff and Palisade did not apply to defendant. Accordingly, we find that the parties to this case did not have an agreement to arbitration.

¶ 21 Despite the engagement letter being a contract between plaintiff and Palisade, defendant nevertheless claims that it can invoke the arbitration clause as an agent of Palisade. We disagree.

¶ 22 Defendant is correct that a nonsignatory to an arbitration clause can invoke an arbitration agreement under an agency theory. *Peach v. CIM Insurance Corp*., 352 Ill. App. 3d 691, 695 (2024) (citing *Caligiuri v. First Colony Life Insurance Co.*, 318 Ill. App. 3d 793, 800 (2000)). In an agency relationship, the principal can be legally bound by action taken by the agent where the principal confers actual authority on the agent. *Peterson,* 2023 IL App (1st) 230356, ¶ 40.

¶ 23 However, the right to compel arbitration stems from an underlying contract and generally may not be invoked by a nonsignatory to the contract. *Caligiuri*, 318 Ill. App. 3d at 800. Additionally, the moving party has the initial burden to establish that the parties have a valid agreement to arbitrate and that the controversy falls within the scope of the arbitration provision. *Gaines v. Ciox Health, LLC*, 2024 IL App (5th) 230565, ¶ 25.

¶ 24 Defendant's argument is rebutted by the explicit language of the agreement itself as well as averments contained in the affidavit of its CEO, David Potalivo. Throughout the agreement, Palisade made it clear that it applied only to the relationship between it and plaintiff as a result of the law firm's engagement for legal services.

¶ 25 Moreover, we note that the included affidavit of defendant's CEO averred that defendant referred plaintiff to Palisade; confirmed that defendant was not a party to plaintiff's contract with Palisade; defendant had no contractual relationship with plaintiff; and after plaintiff was referred to Palisade and signed a contract with Palisade, defendant did not communicate further with plaintiff. This affidavit negates defendant's argument that it was an agent for Palisade, rather, it merely referred plaintiff to Palisade which ultimately handled plaintiff's matter.

¶ 26 Defendant's argument appears to rest solely on its contention that plaintiff's complaint painted it as an agent of Palisade. Defendant has not provided any support for its argument that it was an agent of Palisade or that the referral services it provided to Palisade somehow fell under the scope of legal services between plaintiff and Palisade, thereby invoking the arbitration clauses. On a motion to compel, the movant has the burden to establish that the parties have a valid agreement to arbitrate and that the controversy falls within the scope of the arbitration provision. *Gaines*, 2024 IL App (5th) 230565, ¶ 25.

¶ 27 We simply do not have that here- defendant has not established that it had a valid agreement with plaintiff to arbitrate. Indeed, the CEO's affidavit averred that defendant had no contractual relationship with plaintiff at all. Nor has defendant established that it was somehow an agent for Palisade, rather than merely a referring party. Further, by its own admission, defendant had no communication with plaintiff after she was referred to Palisade and signed the agreement for legal services. As noted by the circuit court, all of the allegations contained in the complaint refer to

conduct by defendant prior to defendant's referral to, and subsequent agreement with, Palisade. It is not enough to simply raise the allegations from plaintiff's complaint regarding the alleged agency between defendant and Palisade; in this instance defendant must establish that there was a valid agency relationship between it and Palisade to invoke the agreement to arbitrate contained in the engagement letter and terms of engagement. That simply is not present here. We find that defendant failed to meet its burden and conclude that the circuit court properly denied defendant's motion to compel arbitration.

¶ 28 III. CONCLUSION

¶ 29 For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 30 Affirmed.